

SENATE BILL NO. 23

INTRODUCED BY J. ELLIOTT

A BILL FOR AN ACT ENTITLED: "AN ACT REDUCING THE SHORTFALL IN GENERAL FUND REVENUE BY REQUIRING IMMEDIATE TRANSFER OF THE EXCESS FUNDS FROM CLAIMS OCCURRING BEFORE JULY 1, 1990, TO THE ACCOUNT FOR CLAIMS OCCURRING AFTER JULY 1, 1990; REQUIRING TRANSFER OF 8.87 PERCENT OF THE FUNDS FROM CLAIMS OCCURRING AFTER JULY 1, 1990, TO THE GENERAL FUND TO RESTORE FISCAL YEAR 2003 FUNDING REDUCTIONS IN THE DEPARTMENT OF PUBLIC HEALTH AND HUMAN SERVICES, WITH THE REMAINDER TO BE TRANSFERRED TO THE GENERAL FUND; REQUIRING IN SUBSEQUENT YEARS THAT THE EXCESS FUNDS FROM CLAIMS OCCURRING BEFORE JULY 1, 1990, BE TRANSFERRED TO THE GENERAL FUND TO BE USED TO FUND BASIC AND PER-ANB ENTITLEMENTS FOR K-12 PUBLIC EDUCATION; REQUIRING PAYMENT OF CLAIMS FOR INJURIES FROM ACCIDENTS OCCURRING BEFORE JULY 1, 1990, FROM THE GENERAL FUND IF CLAIMS ARE NOT ADEQUATELY FUNDED FOLLOWING FUND TRANSFER; AMENDING SECTION 39-71-2352, MCA; AND PROVIDING AN IMMEDIATE EFFECTIVE DATE AND A RETROACTIVE APPLICABILITY DATE."

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

Section 1. Section 39-71-2352, MCA, is amended to read:

"39-71-2352. Separate payment structure and sources for claims for injuries resulting from accidents that occurred before July 1, 1990, and on or after July 1, 1990 -- spending limit -- authorizing transfer of money between accounts for payment of claims. (1) Premiums paid to the state fund based upon wages payable before July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occurred before July 1, 1990. Premiums paid to the state fund based upon wages payable on or after July 1, 1990, may be used only to administer and pay claims for injuries resulting from accidents that occur on or after July 1, 1990.

(2) The state fund shall:

(a) determine the cost of administering and paying claims for injuries resulting from accidents that occurred before July 1, 1990, and separately determine the cost of administering and paying claims for injuries resulting from accidents that occur on or after July 1, 1990;

(b) keep adequate and separate accounts of the costs determined under subsection (2)(a); and

(c) fund administrative expenses and benefit payments for claims for injuries resulting from accidents that occurred before July 1, 1990, and claims for injuries resulting from accidents that occur on or after July 1, 1990, separately from the sources provided by law.

(3) The state fund may not spend more than \$1.25 million a year to administer claims for injuries resulting from accidents that occurred before July 1, 1990.

(4) As used in this section, "adequately funded" means the present value of:

(a) the total cost of future benefits remaining to be paid;

(b) the cost of administering the claims; and

(c) an additional amount equal to 10% of the total of the amounts in subsections (4)(a) and (4)(b).

(5) ~~By October 1 of each year following the first full fiscal year after termination of the old fund liability tax~~ On [the effective date of this act] and based on audited financial statements adjusted for unrealized gains and losses for the fiscal year ending June 30, 2002, any funds in excess of the adequate funding amount established in subsection (4) must be returned to the account established in 39-71-2321 to pay claims for injuries resulting from accidents that occurred on or after July 1, 1990. ~~The total amount of funds returned to the account under this section may not exceed \$63.8 million~~ Following the transfer, 8.87% of the total amount of funds in the account established in 39-71-2321 to pay claims for injuries resulting from accidents that occurred on or after July 1, 1990, must be transferred to the general fund to be allocated to the department of public health and human services as follows:

(a) Prior to June 30, 2003, the amount of \$350,000 is allocated to be used to offset a portion of the medicaid coinsurance reduction imposed by department rule, with the remainder to be transferred as follows:

(i) \$410,000 to fund direct-care positions and positions needed for service coverage 24 hours a day, 7 days a week;

(ii) \$273,000 to restore mental health drop-in center contracts;

(iii) \$686,197 to restore medicaid outpatient mental health services for foster care and juvenile corrections children and for full-day treatment for adults with serious mental illness;

(iv) \$258,736 to restore mental health day treatment;

(v) \$400,000 to restore a portion of the cuts in medicaid long-term care benefits imposed by department rule;

(vi) \$95,000 to maintain essential travel for child and adult protective services, foster care, and the

1 disability services division;

2 (vii) \$300,000 to offset unrealized savings from Medicaid waiver requests that will not be approved by
3 October 1, 2002;

4 (viii) \$2,500 to offset emergency donated developmental disability dental services reductions imposed
5 by department rule;

6 (ix) \$88,684 to restore blind and low-vision services reductions imposed by department rule;

7 (x) \$350,000 to reduce the pharmacy co-pay;

8 (xi) \$302,027 to restore child-care matching funds for child-care services;

9 (xii) \$250,247 to restore mental health for children in the children's health insurance program (CHIP);

10 (xiii) \$89,222 to restore the CHIP program waiting list;

11 (xiv) \$71,030 to restore some or all of the developmentally disabled extended employment program;

12 (xv) \$30,000 to restore the meals on wheels program; and

13 (xvi) any remaining funds to the state general fund.

14 (b) In subsequent years, the entire amount of funds in excess of the adequate funding amount
15 established in subsection (4) must be transferred to the general fund to fund basic and per-ANB entitlements
16 for K-12 public schools.

17 (6) If in any fiscal year after the old fund liability tax is terminated claims for injuries resulting from
18 accidents that occurred before July 1, 1990, are not adequately funded, any amount ~~returned to the account in~~
19 ~~39-71-2321 to pay claims for injuries resulting from accidents that occurred on or after July 1, 1990, must be~~
20 ~~transferred back to the account established in 39-71-2321~~ necessary to pay claims for injuries resulting from
21 accidents that occurred before July 1, 1990, must be transferred from the general fund to the account provided
22 for in 39-71-2321.

23 (7) The independent actuary engaged by the state fund pursuant to 39-71-2330 shall project the unpaid
24 claims liability for claims for injuries resulting from accidents that occurred before July 1, 1990, each fiscal year
25 until all claims are paid."

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27 **NEW SECTION. Section 2. Effective date -- retroactive applicability.** [This act] is effective on
28 passage and approval and applies retroactively, within the meaning of 1-2-109, to excess funds that have been
29 transferred or are available to be transferred for the fiscal year ending June 30, 2002.

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